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09/989,583	11/20/2001	Stephen Todd	07072-146001	9738

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EXAMINER

LESNIEWSKI, VICTOR D

ART UNIT PAPER NUMBER

2155

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/989,583

Applicant(s)

TODD ET AL.

Examiner

Victor Lesniewski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This application has been examined.
2. Claims 1-20 are now pending.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 15 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

5. Claim 15 recites the limitation "the list of services" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim. Nowhere in the claims from which claim 15 depends is there mention of a list of services, making the scope of claim 15 unclear.

6. Claim 16 recites the limitation "the requested one of the services" in line 3. There is insufficient antecedent basis for this limitation in the claim. Nowhere in the claims from which claim 16 depends is there mention of a requested service, making the scope of claim 16 unclear.

#### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

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international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-6, 8-11, and 17-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Stone et al. (U.S. Patent Number 6,421,737), hereinafter referred to as Stone.

9. The independent claims will be discussed together. Those claims which are essentially the same except that they set forth the claimed invention as a computer program product or a system are rejected under the same rationale applied to the described claim.

10. Stone has disclosed:

- <Claims 1, 19, and 20>

A method of managing resources, comprising: connecting to the resources (column 3, lines 24-32); providing executable modules corresponding to the resources, the modules each implementing a common interface and corresponding to a different one of the resources (column 3, lines 24-29 and 55-62); making calls to the common interface in each of the executable modules to cause the executable modules to return information about the corresponding resources (column 6, lines 10-22); and storing the information about the corresponding resources in a database (figure 1, item 17).

- <Claim 2>

The method of claim 1, wherein the resources comprise data storage resources (column 3, lines 29-32).

- <Claim 3>

The method of claim 2, wherein the data storage resources reside in a datacenter controlled by a storage service provider (column 3, lines 29-32).

Although Stone does not use the terminology “service provider,” he does explicitly disclose a number of resources stored on such computing equipment as network servers. From Stone’s system it is clearly inherent that if these resources exist on network servers, then there exists a provider for these resources. In order to support this inherency, Newton’s Telecom Dictionary 2002, as cited below, is introduced. See MPEP 2131.01.

- <Claim 4>

The method of claim 3, further comprising presenting the information to an administrator of the storage service provider (column 6, lines 17-20).

- <Claim 5>

The method of claim 4, wherein the information comprises data storage resource attributes (column 5, lines 20-32).

- <Claim 6>

The method of claim 5, further comprising enabling the administrator to select, for a given data storage resource, which of the data storage attributes are to be stored in the database (column 5, lines 29-32).

- <Claim 8>

The method of claim 4, further comprising: generating a directory of the executable modules; and placing each of the executable modules in the directory (figure 1, item 16).

- <Claim 9>

The method of claim 8, wherein the common interface comprises a set of methods (column 3, lines 55-62).

- <Claim 10>

The method of claim 9, wherein the methods include a first method that, when called, cause the executable module to identify the class of resources monitored by that executable module, and a second method that, when called, causes the executable module to discover any resources within the identified class that are connected (column 4, lines 51-66).

- <Claim 11>

The method of claim 10, wherein the methods further include a third method that, when called, causes the executable module to poll the resources that were discovered by the executable module (column 5, lines 52-67).

- <Claim 17>

The method of claim 5, further comprising: adding a new data storage resource to the datacenter (column 2, lines 49-56); connecting to the new data storage resource (column 3, lines 24-32); providing a new one of the executables modules to correspond to the new data storage resource (column 2, lines 52-56); and placing the new one of the executable modules in the directory (column 2, lines 56-59).

- <Claim 18>

The method of claim 17, wherein making calls to the common interface comprises making calls to a common interface in the new one of the executable modules (column 2, lines 49-66).

Since all the limitations of the invention as set forth in claims 1-6, 8-11, and 17-20 were disclosed by Stone, claims 1-6, 8-11, and 17-20 are rejected.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 7 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stone, as applied above, in view of Nine et al. (U.S. Patent Number 6,560,611), hereinafter referred to as Nine.

13. Stone disclosed a system for monitoring selected resources of a computing system using standardized monitoring modules. In an analogous art, Nine disclosed a network monitoring system for monitoring all services and conditions on various networks. Both systems satisfy the need for more efficient network monitoring.

14. Concerning claim 7, although Stone did not explicitly state the use of executable modules with Java, Nine states the use of Java in his system. Since the inventions solve the same problem, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Stone by adding the ability to utilize Java as provided by Nine. Here, the combination satisfies the need for more efficient network monitoring. See Nine, column 1, lines 47-55.

15. Concerning claims 12 and 13, although Stone did not explicitly state the use of XML to provide polling results, Nine states the use of XML in his system. Since the inventions solve the same problem, it would have been obvious to one of ordinary skill in the art at the time of the

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applicant's invention to modify the system of Stone by adding the ability to utilize XML as provided by Nine. Again, the combination satisfies the need for more efficient network monitoring. See Nine, column 1, lines 47-55.

16. Concerning claim 14, although Stone did not explicitly state returning a list of services to the user, Nine states this feature in his system. Since the inventions solve the same problem, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Stone by adding the ability to return a list of services to the user as provided by Nine. Again, the combination satisfies the need for more efficient network monitoring. See Nine, column 1, lines 47-55.

17. The above rationale also applies to those dependent claims utilizing the same combination.

18. Thereby, the combination of Stone and Nine discloses:

- <Claim 7>

The method of claim 1, wherein the executable modules comprise JAVA classes (Nine, column 9, lines 55-65).

- <Claim 12>

The method of claim 11, wherein results of the polling are provided in XML format (Nine, column 3, lines 37-48).

- <Claim 13>

The method of claim 11, wherein the results of the polling are provided in a format other than XML and the executable module performing the polling converts the results of the polling to XML format (Nine, column 3, lines 37-48).



Furthermore, it is well known in the art to convert data into an alternate format in a network when needed.

- <Claim 14>

The method of claim 11, wherein the methods further comprise a fourth method that, when called, causes the executable module to return a list of services and associated parameters (Nine, column 5, line 60 through column 6, line 8).

- <Claim 15>

The method of claim 12, wherein the methods further comprise a fifth method that, when called, causes the executable module to execute a requested one of the services on the list of services (Nine, column 6, lines 9-20).

- <Claim 16>

The method of claim 13, wherein making calls to the common interface comprises making a call to the fifth method, and wherein making a call to the fifth method comprises specifying values of parameters associated with the requested one of the services received from a customer of the service provider (Nine, column 6, lines 20-25).

Since the combination of Stone and Nine discloses all of the above limitations, claims 7 and 12-16 are rejected.

### *Conclusion*

19. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

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- Haggard et al. (U.S. Patent Number 6,148,335) disclosed a framework for managing performance and capacity over network servers.
- Lumelsky et al. (U.S. Patent Number 6,516,350) disclosed a self-regulated resource management system for managing distributed computer resources.
- Swartz et al. (U.S. Patent Number 6,732,167) disclosed a method for service request processing between a service provider and a customer.
- Bush (U.S. Patent Number 6,754,664) disclosed a method for defining the health of resources on a network using a hierarchical, object-oriented approach.
- Jenkins, Ron, "Why Web-based Network Monitoring? Leveraging the Platform," International Journal of Network Management, Volume 9, Issue 3, May 1999, pgs. 175-183, disclosed details of a networking monitoring system using browser-based clients.
- Guiaougoussou, M. H.; Boutaba, R. ; Kadoch, M., "A Java API for Advanced Faults Management," IEEE/IFIP International Symposium on Integrated Network Management Proceedings, 14-18 May 2001, pgs. 483-498, disclosed a system for modeling managed resources using Java and Telecommunications Network Management standards.
- "Service Provider," Newton's Telecom Dictionary, Harry Newton, February 2002, pg. 661.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Lesniewski whose telephone number is 571-272-3987.

The examiner can normally be reached on Monday through Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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